IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1035 of 2004 (M/B)

Balwant Singh Chuphal,
S/o Late Sri Sher Singh Chuphal,
R/o Village Malli Bamori,
Post Office Bhotia Parav, Haldwani,
District Nainital. …Petitioner

Versus

1. Principal Secretary,
   Uttaranchal Pollution Control Board,
   E-115, Nehru Colony, Dehradun.
2. Chairman,
   Uttaranchal Pollution Control Board,
   Dehradun.
3. Regional Officer,
   Uttaranchal Environment Protection and
   Pollution Control Board,
   Awas Vikas Colony, Haldwani,
   District Nainital.
4. M/s Uttarakhand Stone Crusher Pvt. Ltd.,
   through V.B. Singh Shishodiya,
   Gauja Jali, South, Bareilly Road,
   Haldwani, District Nainital,
   Uttaranchal. …Respondents

……..

Mr. Rakesh Thapliyal, Advocate for the petitioner.
Mr. Sudhir Singh, Advocate for Respondent Nos. 1 to 3.
Mr. M.S. Pal, Senior Advocate for the respondent no. 4.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

Rajeev Gupta, C.J. (Oral)

Mr. Rakesh Thapliyal, Advocate for the petitioner.

Mr. Sudhir Singh, Advocate for Respondents nos. 1 to 3.

Mr. M.S. Pal, Senior Advocate for the respondent no. 4.

2. The petitioner has filed this writ petition styled as Public Interest Litigation for the following reliefs:

> "1. Issue a writ, order or direction in the nature of Mandamus directing the respondent no. 1 to 3 to take immediate action for closure of the unit of M/s Uttaranchal Stone Crusher Pvt. Ltd. (Respondent No. 4) forthwith and to take all preventive measure so that the public at large may not suffer from physical, chemical and biological conditions of the environment and or to pass any such order which this Hon'ble Court may deem fit and proper on the basis of the case as well as after taking into consideration the interest of public at large.
>
> 2. Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.
>
> 3. Award the cost of the petition to the petitioner."

3. Earlier also the stone crusher run by the fourth respondent was under scrutiny in Writ Petition 896 of 2002 (MB) which was disposed of vide judgment dated 06.08.2004 holding that the stone crusher run by the fourth respondent was not causing any pollution in the locality. The Court held so on the basis of the report submitted by amicus curiae appointed in the said petition.

4. Admittedly, the petitioner has not approached the authorities of the Pollution Control Board so far with a complaint alleging causing of pollution by the fourth respondent after the passing of the judgment dated 06.08.2004 in Writ Petition No. 896 of 2002 (MB). In our opinion, it would be appropriate for the petitioner to first approach authorities of the Pollution Control Board for the redressal of the grievances projected in the petition.

5. With the above observation, the writ petition stands disposed of.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, C.J.)**

24.02.2006
A